

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID McCLOY,

Plaintiff,

v.

CORRECTION MEDICAL SERVICES
LAFLER, RIVARD, WASHINGTON,
DOVE, PATTON, AMY BURTON,
DIANE TEMPLE, WILKENSON,
TROMBLEY, THOMSON, MORRIS,
CO PEUTRICH, and CO CHAPELO,

Defendants.

Case No. 07-13839

David M. Lawson
United States District Judge

Michael Hluchaniuk
United States Magistrate Judge

**ORDER DENYING MOTION
FOR CONTINUANCE (Dkt. 90)**

Plaintiff, David McCloy, filed this lawsuit against defendants alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. (Dkt. 1). Although his initial complaint was not entirely clear, apparently, plaintiff claims that defendants failed to provide him with regular and necessary insulin injections for his diabetes. (Dkt. 1). Plaintiff filed an application to proceed *in forma pauperis*, which was granted on October 26, 2007. (Dkt. 5, 7). District Judge David M. Lawson referred this matter for all pretrial purposes to Magistrate Judge R. Steven Whalen on November 9, 2007. (Dkt. 9). This matter was reassigned to

the undersigned on January 14, 2008. (Dkt. 14). The undersigned previously entered an order designating plaintiff's response to defendants' motions for more definite statement as his amended complaint. (Dkt. 47). Defendants filed, and the Court granted, a motion for extension of time to file a response to plaintiff's amended complaint. (Dkt. 128, 129). Defendants' response is due May 11, 2009. (Dkt. 129).

On December 1, 2008, plaintiff filed a motion for a 120 day continuance of this matter, so that his motions for injunctive relief may be resolved and so that he may obtain legal writer assistance. (Dkt. 90). Given that plaintiff's motions for injunctive relief have been resolved, or will shortly be resolved by the District Court, that more than 120 days has passed since plaintiff filed his motion for continuance, that defendants have not yet filed an answer to the amended complaint, and that no scheduling order has been issued in this case, the relief requested by plaintiff is unnecessary and essentially moot.

Based on the foregoing, plaintiff's motion for 120 day continuance is **DENIED**.

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Date: April 27, 2009

s/Michael Hluchaniuk

Michael Hluchaniuk

United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on April 27, 2009, I electronically filed the foregoing pleading with the Clerk of the Court using the ECF system, which will send notification of such filing to the following: Ronald W. Chapman, David B. Mammel, and Scott R. Rothermel, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s)*: David McCloy, #471229, Macomb Correctional Facility, 34625 26 Mile Rd., New Haven, MI 48048.

*The docket indicates that the Plaintiff's address is Huron Valley Complex - Men's, 3201 Bemis Rd., Ypsilanti, MI 48197. Mail returned from that facility indicates that plaintiff has been transferred. Follow up information indicates that the plaintiff is now at the above-noted address.

s/James P. Peltier
Courtroom Deputy Clerk
U.S. District Court
600 Church Street
Flint, MI 48502
(810) 341-7850
pete_peltier@mied.uscourts.gov

I certify that I have mailed by United States Postal Service the foregoing pleading to the plaintiff, a non-ECF participant, at the following addresses*: David McCloy, #471229, HURON VALLEY COMPLEX-MEN'S, 3201 Bemis Road, Ypsilanti, MI 48197 and David McCloy, #471229, MACOMB CORRECTIONAL FACILITY, 34625 26 Mile Road, New Haven, MI 48048.

*The court docket reflects that the plaintiff's address is the Huron Valley Complex-Men's. However, a check with the Michigan Department of Corrections prisoner tracking system indicates that the plaintiff is currently located at the Macomb Correctional Facility

s/James P. Peltier
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